

4120.04- EMPLOYMENT OF SUBSTITUTES

The Board of Education shall employ and the Superintendent, subject to the approval of the Board, shall assign substitute service personnel on the basis of seniority to perform any of the following duties:

A. To fill the temporary absence of another service employee.

B. To fill the position of a regular service employee who either requests a leave of absence from the Board in writing and is granted the leave in writing by the Board, or is on workers' compensation and absent.

If the leave of absence is to extend beyond thirty (30) working days, the Board shall post the position of the absent employee under the procedure set forth in WV Code 18A-4-8b. If a substitute service employee is employed to fill the position of the absent employee and is employed in the position for twenty (20) or more working days, the substitute service person acquires regular employee status with the exception of regular job bidding rights, does not accrue regular seniority, and is accorded all other rights, privileges and benefits pertaining to the position until the regular employee returns to the position or ceases to be employed by the Board.

The regular or substitute employee who fills a vacancy that is related to a leave of absence or the absence of an employee on worker's compensation in any manner as provided in this policy, upon termination of the leave of absence of the employee, shall be returned to his/her original position or status.

No service person may be required to request or to take a leave of absence and no service person shall be deprived of any right or privilege of regular employment status for refusal to request or failure to take a leave of absence.

C. To perform the service of a service employee who is authorized to be absent from duties without loss of pay.

D. To temporarily fill a vacancy in a permanent position caused by severance of employment by the resignation, transfer, retirement, permanent disability, dismissal for cause, or death of the regular service employee who had been assigned to fill the position.

Within twenty (20) working days from the commencement of the vacancy, the Board shall fill the vacancy under the procedures described in WV Code 18A-4-8b and 18A-2-5, and the person hired to fill the vacancy shall have and shall be accorded all rights, privileges and benefits pertaining to the position.

E. To fill the vacancy created by a regular employee's suspension.

If the suspension is for more than thirty (30) working days, the Board shall post the position of the suspended employee under the provisions of WY Code 18A-4-8b. If a substitute service employee is employed to fill the suspended employee's position, the substitute employee shall acquire regular employee status with the exception of regular employee job-bidding rights, shall not accrue regular seniority, and shall be accorded all rights, privileges and benefits pertaining to the position until the termination by the Board becomes final or the suspended employee is returned to employment.

If the suspended employee is not returned to his/her job, the Board shall fill the vacancy under the procedures described in WV Code 18A-4-8b, and WV Code 18A-2-5.

F. To temporarily fill a vacancy in a newly created position, prior to employment of a service personnel on a regular basis under the procedure set forth in WV Code 18A-4-8b.

Persons whose names do not already appear on the substitute list for a service personnel category of employment may attain that status only by making application in response to a posted notice of vacancy for that substitute list. The posting process, and the selection of candidates from among the applicants, shall follow the procedures set forth in WY Code 18A-4-8b.

All applications for employment shall be made using the process defined by the Superintendent or designee.

Any person who intentionally misstates facts material to his/her qualifications for employment as a substitute service employee or the determination of salary shall be subject to dismissal by the Board.

Applications for employment as a substitute

service employee will not be accepted from any current Board member. If a Board member wishes to apply for a position, his/her resignation must be accepted by the Board prior to submitting an application and circumstances must be such as to avoid the Board member's apparent use of his/her authority or influence as a Board member to secure the employment position. Employment, as used herein, shall not include volunteer positions for which no compensation is paid.

The Superintendent shall request an appropriate criminal background check regarding the prospective employee prior to making any recommendation to the Board.

The Board will not employ as a substitute service employee the unemancipated child or a dependent (IRS criteria) of the Superintendent or any Board member. Otherwise, the Board may employ a member's or the Superintendent's relatives, including his/her parent or parent-in-law, brother or sister, brother-in-law or sister-in-law, child, son-in-law or daughter-in-law, grandparent, or grandchild. When any such relative of a Board member is employed as a substitute service employee, the related Board member shall not participate in any way in the discussion or vote on the employment and the Board member shall leave the Board meeting during the discussion and vote. When any such relative of the Superintendent is employed as a substitute service employee, the Superintendent shall not participate in any way in the discussion on the employment. Thereafter, the Board member may not vote on a personnel matter involving his/her relative unless the matter affects the Board member's relative as a member of a profession or occupation, or as a member of a class of at least five (5) persons.

Before any substitute service employee enters upon his/her duties, he/she shall execute with the County Board a written contract as provided in WV Code 18A-2-5.

Service personnel substitutes shall be assigned in the following manner:

- A. A substitute with the greatest length of service time, that is, from the dates/he began his/her assigned duties as a substitute in that particular category of employment, shall be given priority in accepting the assignment throughout the period of the regular employee's absence or until the vacancy is filled on a regular basis under the procedures described in WV Code 18A-4-8b.
- B. All service personnel substitutes shall be employed on a rotating basis according to the length of their service time until each substitute has had an opportunity to perform similar assignments. Employees first placed on the substitute rotation list during a school year shall initially be placed at the bottom of the list. The substitute rotation list shall be re-ordered according to seniority each July 1 st.
- C. If there are regular service employees employed in the same building or working station as the absent employee and who are employed in the same classification category of employment, they shall be first offered the opportunity to fill the position of the absent employee on a rotating and seniority basis with a substitute service employee then filling the regular employee's position. A regular employee assigned to fill the position of an absent employee shall be given the opportunity to hold that position throughout the absence. For purposes of this policy, all regularly employed bus operators are considered to be employed within the same building or working station.

SERVICE SUBSTITUTE CLASSIFICATIONS

The Superintendent shall, upon approval of the Board, employ and assign substitute employees to serve as needed in the following classifications:

- A. Aide
- B. Bus Operator
- C. Cook
- D. Custodian

E. General Maintenance

F. Mechanic

G. Secretary

No substitute employee shall be employed to more than one substitute classification, except that a substitute bus operator shall be permitted to simultaneously be employed as a substitute mechanic. Any substitute employee currently employed in one classification may apply for and be given the opportunity to complete the competency examination for another classification, but may not be employed in that classification unless he/she simultaneously resigns from his/her current classification.

Should no substitute be available for a position in a particular classification, and should the Superintendent determine that it is necessary to assign a substitute to that position notwithstanding the fact that no substitute is available in that classification, then substitutes from other classifications may be offered this assignment in the following orders, providing that within each classification, the rotation order already established for that classification is followed:

A. For the Aide classification:

1. Secretary

B. For the Bus Operator classification:

1. Mechanic

C. For the Cook classification:

I. (none)

D. For the Custodian classification:

I. General Maintenance

E. For the General Maintenance classification:

I. Custodian

F. For the Mechanic classification:

I. (none)

G. For the Secretary classification:

1. Aide

Notwithstanding any other provision of this policy, a substitute employed or assigned to a position in the Cook classification must also possess a valid food handler's card as required by state and local regulations.

Notwithstanding any other provision of this policy, a substitute employed or assigned to a position in the Bus Operator classification must be properly licensed as a bus operator by the West Virginia Department of Education.

DISMISSAL

Substitute employees shall be expected to conduct themselves according to state and county policies and shall be held to the same standards for behavior and performance as regular employees while discharging their duties. The Superintendent may, subject to Board approval, suspend or recommend termination of employment as a substitute pursuant to State and local policy.

The Board recognizes the need for an active and accessible pool of substitute employees to maintain the efficient operation of the school system. As such, the Superintendent or designee shall from time to time review the work history of substitute employees to determine if any should be recommended for dismissal for lack of availability-

~~Any service substitute employee who is found to have not accepted and served in any assignment for a period of forty five continuous working days during a school term or terms, and having been offered at least three assignments during this time, shall be notified in writing that, if he/she continues to be unavailable for assignments, his/her employment as a substitute may be terminated for lack of availability. If the substitute is subsequently found to have not accepted and served in any assignment for a period of twenty continuous days during a school term or terms following the initial forty five days, and having been offered at least three assignments during this time, then he/she shall be notified in writing that the Superintendent shall recommend that his/her employment as a substitute be terminated by the Board for lack of availability, and shall be afforded the opportunity to be heard by the Board before his/her employment as a substitute is terminated.~~

~~For the purposes of this policy, a substitute shall be considered to have not accepted an assignment if he/she has not otherwise been assigned to serve in another position for that day or has refused to accept any assignment offered for that day without providing written documentation from a physician or court as to the good cause for which he/she is unavailable for that assignment. For the purposes of this policy, an assignment shall be considered offered if the substitute has not otherwise been assigned and has either indicated refusal of that opportunity or been contacted to accept that opportunity and not responded, including not answering a phone call made to offer that opportunity.~~

It is expected that substitute employees will be available and accept offered assignments. The unavailability of a substitute employee or the refusal of offered assignments at excessive levels, regardless of the reasons for such unavailability or refusal, has a detrimental effect upon the efficient operation of the school system. However, in recognition of the occurrence of a reasonable number of circumstances beyond the control of substitute employees, a determination has been made to require substitute service employees to accept a minimum of fifty (50%) of all assignment calls during the school year. To determine compliance with this policy, the percentage will be reviewed at the end of each nine (9) weeks. Upon any review where fifty percent (50%) of all assignment calls have not been accepted, a warning letter will be issued to the employee. Any subsequent review that shows that a substitute service employee has not accepted fifty percent (50%) of all assignment calls, the employee will receive notice via certified mail that the Superintendent will be presenting his/her name to the Board for termination. A substitute employee who is terminated under the terms of this policy shall not be eligible for employment with Mingo County Schools in any capacity for a period of two (2) years following the date of termination.

Retired service personnel serving as substitutes are exempt from meeting the minimum assignment calls.

LONG-TERM SUBSTITUTES

"Long-term substitute" means a substitute employee who fills a vacant position that the Superintendent expects to extend for at least thirty (30) consecutive working days, and has been recommended by the Superintendent and hired by the Board as a long-term substitute for that position. The hiring of a long-term substitute to fill a vacant position does not provide that substitute with any guarantee of continued employment in that position. Once a long-term substitute has been hired to fill a vacant position, the substitute shall remain in the position until the regular employee returns to work or until the position has been vacated, posted, and filled by the Board with a regular employee.

While employed as such, long-term substitutes shall receive all benefits, privileges, and rights as would be accorded to a regular employee in their position. Long-term substitutes shall accrue 1.5 days of personal leave for every 20 days employed as a long-term substitute, provided that these days are only applicable to personal leave taken while employed as a long-term substitute. Upon employment as a regular employee, all personal leave accrued as a long-term substitute shall be forfeit. This personal leave shall be governed by the same rules and regulations as that applied to personal leave for regular employees.

For the purposes of eligibility for PEIA benefits, a long-term substitute does not include a retired employee hired to fill the vacant position.

Substitute service employees who have worked thirty (30) days for a school system shall have all rights pertaining to suspension, dismissal and contract renewal as are granted to regular service personnel in WV Code 18A-2-6, 18A-2-7, 18A-2-8 and WV Code 18A-2-8a.

DAILY SUBSTITUTES

"Daily substitute" shall mean a substitute employee who temporarily fills a position held by a regular employee while that employee is absent using personal leave or that has been made vacant by resignation, death, suspension, or dismissal of the regular employee and has not yet been filled by a regular employee or long-term substitute pursuant to this policy.

Daily substitutes shall not receive any benefits, rights, or privileges afforded to regular employees except that which is required by law. Daily substitutes shall not be paid for days on which students are not required to attend school.

A daily substitute may be dismissed from an assignment at the sole discretion of the Superintendent. Any substitute employee dismissed from an assignment by the Superintendent shall be notified of his/her dismissal in writing.

SUBSTITUTE SERVICE PERSONNEL SENIORITY AND EXPERIENCE CREDIT

To establish a uniform system of providing a fair and equitable opportunity for substitutes to enter upon their duties for the first time, the following method shall be used: The initial order of assigning newly employed substitutes shall be determined by a random selection system established by the affected substitute employees and approved by the Board. This initial priority order shall be in effect only until the substitute service personnel have entered upon their duties for the first time. Once the substitute service personnel have entered upon their duties for the first time, this date shall establish the substitute service personnel's substitute seniority in the classification assigned.

Upon completion of 133 days of employment in any one (1) school year, substitute service personnel, except retired service personnel and other retired educators employed as substitutes, shall accrue a year of experience for pay purposes.

DAILY RATE FOR SUBSTITUTE SERVICE PERSONNEL

The salary of a substitute service employee shall be based upon his/her years of employment as defined in WV Code 18A-4-8 and as provided in the State minimum pay scale set forth in WV Code 18A-4-8a and shall be in accordance with the salary schedule of persons regularly employed in the same position in the county in which s/he is employed.

GRIEVANCE RIGHTS FOR SUBSTITUTE EMPLOYEES

A substitute service employee may file a grievance but is considered an employee only on matters related to days worked or when there is a violation, misapplication or misinterpretation of a statute, policy, rule or written agreement relating to such substitute.

EVALUATION OF SUBSTITUTE EMPLOYEES

Substitute service personnel shall be evaluated in accordance with State and local policies.

WV Code 18A-4-15

WV Code 6C-2-2(d)

As required by federal laws and regulation, the Mingo County Board of Education does not discriminate on the basis of sex, race, color, religion, disability, age or national origin in employment or in the administration of any of its educational programs and activities.